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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,926	11/24/2003	Gary D. Giegerich	9249-48U1	5229
570	7590	08/19/2004	EXAMINER	
AKIN GUMP STRAUSS HAUER & FELD L.L.P. ONE COMMERCE SQUARE 2005 MARKET STREET, SUITE 2200 PHILADELPHIA, PA 19103-7013			MENDOZA, ROBERT J	
		ART UNIT		PAPER NUMBER
		3713		

DATE MAILED: 08/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/720,926	GIEGERICH, GARY D. <i>GN</i>
	Examiner Robert J Mendoza	Art Unit 3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 19 May 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-16 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7, 15 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by McDonald et al. (USPN 5,559,490).

McDonald, in FIGS. 1-3, col. 5:10-67, col. 6:1-67 and col. 7:46-56, discloses a touch pad scoring apparatus including a stand alone housing that is separate from a dartboard and at least one dart, the touch pad scoring apparatus comprising: a stand alone housing; an electronic controller within the housing; a touch pad supported by the housing and having: a plurality of segments, and a plurality of sensors adapted to detect the presence of pressure applied to any one of the plurality of segments and to generate a signal corresponding to the segment to which pressure has been applied, the plurality of sensors being operatively connected to the controller; an electronic game memory operatively connected to the controller; and an electronic display operatively connected to the controller; whereby: pressure applied to at least one touch pad segment corresponding to a dart board segment struck by a thrown dart causes a score associated with the struck dart board segment to be electronically tracked by the game memory, and the controller causes a signal corresponding to the score to be output to the electronic display.

McDonald, in FIGS. 1-3, col. 3:65-67, col. 4:1-48, col. 5:10-67, col. 6:1-67, col. 7:46-56 and col. 8:25-67, discloses the touch pad includes a graphical representation of the dart board and each of

the touch pad segments corresponds directly to a segment of the dart board, the touch pad segments are in the form of a plurality of input keys, the game memory is capable of tracking scores of multiple players through multiple rounds of a game of darts, a plurality of electronic displays and a plurality of control buttons. McDonald, in FIGS. 1-3, col. 3:65-67, col. 4:1-48, col. 5:10-67, col. 6:1-67, col. 7:46-56 and col. 8:25-67, discloses the user may select one of a plurality of dart game variations using one of the plurality of control buttons, and wherein the controller and game memory are capable of tracking scores of multiple players in accordance with the rules of the selected dart game variation McDonald, in FIGS. 1-3, col. 3:65-67, col. 4:1-48, col. 5:10-67, col. 6:1-67, col. 7:46-56 and col. 8:25-67, discloses the triggering event is initial activation of power to the touch pad scoring apparatus, a next turn control button, the next turn control button generating a signal to the controller indicating that a player's turn is complete, wherein the triggering event is activation of the next turn control button.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beall et al (USPN 4,824,121) in view of Smith (USPN 5,384,561).

Beall, in FIGS. 1-5, col. 2:48-67, col. 3:1-67 and col. 5:1-15, discloses a touch pad scoring apparatus for a dart game including a dart board and at least one dart, the touch pad

scoring apparatus comprising: a housing; an electronic controller within the housing; a touch pad supported by the housing and having: a plurality of segments, and a plurality of sensors adapted to detect the presence of pressure applied to any one of the plurality of segments and to generate a signal corresponding to the segment to which pressure has been applied, the plurality of sensors being operatively connected to the controller; an electronic game memory operatively connected to the controller; and an electronic display operatively connected to the controller; whereby: pressure applied to at least one touch pad segment corresponding to a dart board segment struck by a thrown dart causes a score associated with the struck dart board segment to be electronically tracked by the game memory, and the controller causes a signal corresponding to the score to be output to the electronic display. Beall, in FIGS. 1-5, col. 2:48-67, col. 3:1-67, col. 4:1-55 and col. 5:1-15, discloses the touch pad includes a graphical representation of the dart board and each of the touch pad segments corresponds directly to a segment of the dart board, the touch pad segments are in the form of a plurality of input keys, the game memory is capable of tracking scores of multiple players through multiple rounds of a game of darts, a plurality of electronic displays and a plurality of control buttons. Beall, in FIGS. 1-5, col. 2:48-67, col. 3:1-67, col. 4:1-55, col. 5:1-15, col. 6:1-25 and col. 7:1-55, discloses the user may select one of a plurality of dart game variations using one of the plurality of control buttons, and wherein the controller and game memory are capable of tracking scores of multiple players in accordance with the rules of the selected dart game variation, a sound generator operatively connected with the controller; a sound memory storing information corresponding to at least one sound recording, the sound memory operatively connected to the controller; wherein the controller causes the at least one sound recording to be audibilized upon occurrence of a triggering event. Beall, in FIGS. 1-5, col.

2:48-67, col. 3:1-67, col. 4:1-55, col. 5:1-15, col. 6:1-25 and col. 7:1-55, discloses the triggering event is initial activation of power to the touch pad scoring apparatus, a next turn control button, the next turn control button generating a signal to the controller indicating that a player's turn is complete, wherein the triggering event is activation of the next turn control button, at least one light, the at least one light is capable of emitting light of a plurality of different colors, each of the plurality of different colors corresponds to a different condition occurring in the course of the dart game and the at least one light is a light emitting diode.

Beall lacks in disclosing a touch pad scoring apparatus including a stand-alone housing that is separate from the dartboard. Instead, Beall discloses a touch pad scoring apparatus that housed in the same structure as the dartboard. Smith, in an analogous invention, teaches, in FIGS. 1-2, col. 1:2-67 and col. 2:1-36, an improved electronic scoreboard construction wherein the same can be utilized to keep scores associated with conventional dart games as well as the game of cricket. Smith discloses this feature with the intention of providing a new and improved electronic scoreboard, which is susceptible of a low cost of manufacture with regard to both materials and labor, thereby making the electronic scoreboards economically available to the buying public (col. 2:20-35). It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Smith into the disclosed invention of Beall. One would be motivated to combine the teachings of Smith with the disclosure of Beall in order to provide an electronic scoreboard that is susceptible of a low cost of manufacture, and heighten the overall excitement of the game.

Response to Arguments

Applicant's arguments with respect to claims 1-16 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to R. Mendoza whose telephone number is (703) 305-7345. The examiner can normally be reached on Monday-Friday from 8:00am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the primary examiner, John Hotaling, can be reached at (703) 308-0780. The USPTO official fax number is (703) 872-9306.

RM

RM
August 12, 2004

JOHN M. HOTALIN
PRIMARY EXAMINER

